IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.GIRI

TUESDAY, THE 4TH DECEMBER 2007 / 13TH AGRAHAYANA 1929

WP(C).No. 35843 of 2007(P)

PETITIONER:

RAJESH,S/O. JAYAN,
AGED 19 YEARS, SOUMYA NIVAS,
PERUVARAM, KESARI ROAD, NORTH PARAVUR.

BY ADVS. SRI.PHILIP T.VARGHESE
SRI.THOMAS T.VARGHESE

RESPONDENTS:

1. THE DEPUTY TAHSILDAR (REVENUE RECOVERY)
   NORTH PARAVUR.

2. THE SECRETARY,
   TRANVANCORE DEVASOM BOARD
   NATHANCODE, THIRUVANANTHAPURAM.

3. THE MANAGER, THE NATIONAL INSURANCE
   CO. LTD, NORTH PARAVUR.

BY ADV. SRI.K.N.VENUGOPALA PANICKER, SC, TDB

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 04/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

V.GIRI, J.

W.P.(C).No.35843 of 2007 K

Dated this the 4th day of December, 2007.

JUDGMENT

The petitioner instituted O.S.No.106/04 before the Sub Court, North Parur, seeking damages from respondents 2 and 3 herein and others. The suit was instituted informa pauperis, and by Ext.P1 judgment, the same was decreed with costs. In the circumstances, the liability to pay the court fee as per the decree is on the defendants. In the meanwhile, revenue recovery steps have been initiated against the petitioner for recovery of the court fee payable on the plaint. Hence this writ petition.

2. Since the suit has been decreed with costs, the liability to pay the court fee, as per the decree, is on the defendant or the defendants, as the case may be. The delay in the deposit of the amount or the delay in executing the decree, has now resulted in a situation where the plaintiff is called upon to pay the court fee.

3. In the result, after hearing learned counsel for the petitioner, learned standing counsel for the Travancore Devaswom Board {the 2nd respondent} and the learned Government Pleader, the writ petition is disposed of in the following terms:

(i) Enforcement of Ext.P2 shall be kept in abeyance for a period of six months from today.

(ii) In the meanwhile if the 2nd respondent files an appeal against Exts.P1 and P2, it is open to the petitioner to move the appellate court seeking a direction compelling respondents 2 and 3 to pay the costs or a portion of the decree amount.

(iii) If an appeal is not filed within the said time, the petitioner shall proceed to execute the decree, and seek a direction compelling the defendants to deposit a portion of the decree amount or the costs, to enable him to pay the court fee.

Sd/-
(V.GIRI)
JUDGE

sk/

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P.S. To Judge